



In this issue

- JSEC Grant.....1
- Labor Market Statistics.....1
- Req'd posters....2
- Retaliation.....3
- JSEC Spotlight..4

ASSISTANCE WITH EDUCATION GRANT AWARDED

The Livingston Job Service Employers' Council (JSEC) recently awarded an "Assistance with Education Grant" to a local educator. Kate Lende, an English teacher at Park High School applied for the grant in November of 2010 after the Livingston JSEC solicited applications from educators in both Park and Sweet Grass County middle and high schools. The grant award was in the amount of \$256.75 was presented by Jim Hunt, Livingston JSEC President and Skip Shiver, Livingston JSEC

Coordinator at the Livingston Job Service. The award will be used to purchase five books titled, "A Writer's Reference, 7th Edition". Kate's grant application stated that her class at Park High School was in need of the extra books in order to complete a full set so that students would be able to use their own book and no longer need to share.

Kate won the grant award based on her essay connecting the need for students to improve deficiencies in grammar, punctuation and sentence structure skills in order to present themselves and their skills in a polished and professional manner to present and future employers. Lende stated, "Despite the best efforts of teachers from Kindergarten through High School, students often are lackluster when it comes to revising and editing their writing to show-

case their skills". Lende cited how frustrated employers are with their employees' lack of good writing skills saying, "Even a potential employee's résumé and cover letter can reveal deficiencies that reflect poorly on the individual, his or her education, and even the business itself".

According to Lende, the new books will serve as a reference and instructional resource for all of her English classes and especially her sophomore Composition 1 classes. Students will use the manuals to improve weak areas in their writing as identified by the instructor. There is currently no text available for the Composition courses at Park High School that addresses student writing problems. Jim Hunt referred to the benefit the students and local businesses will realize from the award stating, "The inadequacy of proper grammar, spelling and written communication skills exhibited by members of our workforce is a severe problem. Helping our students learn good skills will give them better opportunities towards higher education and greater success in the workplace".

The Livingston JSEC is a non-profit, public benefit organization comprised of local area business and Montana Department of Labor & Industry professionals. Part of their mission is to promote activities that develop our present and future workforce and to sponsor high quality, low-cost educational opportunities which are beneficial to businesses. If you are interested in becoming a member of the Livingston JSEC, please contact Skip Shiver, JSEC Coordinator at Livingston Job Service (406) 222-8902

By Skip Shiver



ATTENTION:
 New 5-in-1 required employment posters are now available at your local Job Service Office for **FREE!** See article on page 2

From December 2010 information (*preliminary data)	MT	U.S.
Unemployment rate/Non-seasonally adjusted	7.4*	9.1
Area Unemployment Rates*	2009	2010
Gallatin	6.8	6.7*
Meagher	8.8	9.1*
Park	8.3	9.2*
Sweet Grass	3.8	3.9*

FREE REQUIRED POSTERS...WHERE & HOW TO GET THEM

Which Posters are Required and Where do I Obtain Them?

The Montana Department of Labor and Industry has responded to employers' needs by making it easier to obtain posters mandated by laws for posting.

Posters required by federal law to be posted in each worksite:

- Equal Employment Opportunity
- Family Medical Leave Act (employers with 50 or more employees)
- FMLA Poster Insert for Military Family Leave Amendments
- Federal Minimum Wage (must be displayed on an employee bulletin board)
- Job Safety and Health (OSHA)
- Employee Polygraph Protection Act (does not apply to public employers)
- Uniformed Services Employment and Reemployment Rights Act
- Employee Rights Under the H-2A Program (Effective March 15, 2010 for H-2A Employers only)

Where to obtain? There are a variety of ways to obtain required posters AT NO COST.

Through your local Job Service Workforce Center

A large all-in-one poster that incorporates five of the required posters may be obtained at no cost to you by contacting your local Job Service Workforce Center. To locate your nearest Job Service go to <http://wsd.dli.mt.gov/service/officelist.asp>. When you call, ask to speak with a Workforce Consultant.

Downloadable from the Internet

General information on required posters, including posters of special interest to federal contractors, can be found at www.dol.gov/osbp/sbrefa/poster/main.htm

Employers with Internet access and Adobe Acrobat Reader can download the required posters directly from the sites listed:

- Equal Employment Opportunity (EEO) Poster www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf
- Family & Medical Leave Act (FMLA) Poster www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf
- Fair Labor Standards Act (FLSA) Poster www.dol.gov/whd/regs/compliance/posters/minwagep.pdf
- Job Safety and Health (OSHA) Poster <http://www.osha.gov/Publications/osha3165.pdf>
- Employee Polygraph Protection Act (EPPA) Poster <http://www.dol.gov/whd/regs/compliance/posters/eppa.htm>
- Employee Rights Under the H-2A Program Poster www.dol.gov/whd/posters/pdf/WHD1491Eng_H2A.pdf
- Uniformed Services Employment and Reemployment Rights Act (pdf) http://wsd.dli.mt.gov/service/userra_poster.pdf
- Montana Clean Indoor Air Act (Available from the Dept. of Public Health & Human Services) <http://tobaccofree.mt.gov/cleanairact/montanacleanindoorairact.shtml>
- Montana Minimum Wage Poster (Employers are not required to post the Montana Minimum Wage Poster) http://erd.dli.mt.gov/images/stories/pdf/labor_standards/minwageposter1-1-11.pdf
- National Labor Relations Act <http://wsd.dli.mt.gov/service/documents/EmployeeRightsPoster.pdf>

OR, call the Montana Department of Labor and Industry, 406-444-9081 or 406-444-4100 for more information about getting employment posters at no cost.

Other "posters" required by Montana law to be posted on an employee bulletin board:

- Proof of Unemployment Insurance Coverage
- Proof of Workers' Compensation Coverage

These documents are only available through the agencies providing your Workers' Compensation and Unemployment Insurance coverage.

Prevailing Wage

There is NOT a Prevailing Wage Poster; however, the Public Contracts/Prevailing Wage law does require the appropriate and applicable prevailing wage rates be posted by the contractor performing work or providing construction services in a prominent and accessible location on the project site.

POSTERS ARE FREE - call Job Service

A SUMMARY OF MONTANA RETALIATION LAWS

There are certain statutes and regulations that prohibit you from discharging or retaliating against employees who engage in certain conduct. We thought it might be helpful for you to know some of those statutes.

Workers' compensation

Under the Montana Workers' Compensation Act (WCA), it is **unlawful to terminate a worker for filing a workers' compensation claim**. The burden is on the worker to show that he was discharged and that the employer's motive was to retaliate against him for making a claim. Therefore, it is important — if you do terminate an employee who has recently made a **workers' compensation claim** — to have good documentation relating to the reasons for discharge.

The WCA also provides that if the injured worker is released to return to work within two years from the date of injury, he

must be given "a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities." Failure to reinstate a qualified employee is a violation of the Act.

When disciplining or discharging employees, it is very important that you have clear, honest reasons for doing so.

Garnishments, discrimination

Under Montana law, you may not fire or lay off an employee because you are served with a garnishment or **attachment against the employee's wages**.

Under both state and federal discrimination laws, you are prohibited from retaliating against an employee who makes a complaint of discrimination, regardless of whether the complaint is actionable. Discrimination laws also protect employees who participate in the investigation of a complaint or act as witnesses.

To prove retaliation under state and federal discrimination laws, the employee must show:

- (1) he engaged in a protected activity;
- (2) the employer took an adverse employment action against him; and
- (3) **a causal link exists between the employee's protected activity and the employer's action.**

Filing a discrimination claim is protected activity, as is participation in the investigation of such a claim. A key factor is **the proximity in time between the employee's conduct and the adverse employment action**, so you must be especially careful when taking action against an employee who has recently made a claim or participated in an investigation.

Public employees' First Amendment rights

Under both Montana's and the U.S. Constitution, **government may not interfere with an individual's right of free speech**. This right is not absolute and can be limited in

time, place, and manner, but government cannot regulate speech based on content or message. That means a government employer can place time, place, and manner restrictions on its **employees' speech, but it cannot retaliate** against an employee for expressing an opinion on a matter of public interest with which the employer disagrees.

It's important to note that protected speech must involve a matter of public concern. Employees speaking out on matters of personal interest are not protected. For example, an employee who complains about his supervisor or internal working conditions that don't affect the outside community could be disciplined for his complaints. On the other hand, a public employer cannot retaliate against a public employee because of his political ideas — unless, of course, the employee is a political appointee.

Safety

The Montana Wrongful Discharge from Employment Act protects employees who report violations of safety statutes or regulations from discharge. Public employers cannot retaliate against workers who complain about safety standards in the workplace, cooperate in an inspection or investigation, or testify in any case resulting from an inspection or investigation.

Practical application

When disciplining or discharging employees, it is very important that you have clear, honest reasons for doing so. You must be particularly careful in dealing with employees who have recently made complaints or expressed political views. Otherwise, you could find yourself facing a retaliation claim.

Reprinted with permission from Montana Employment Law Letter www.HRhero.com/mtemp.shtml
Copyright 2010 M. Lee Smith Publishers LLC.



Livingston Job Service Employers' Council (JSEC)

Spotlight Member Employer By: Skip Shiver



March is a month that has been regarded by many cultures and religions for over 2,000 years as one that usually signals change. And this year change is certainly in the air. For that reason, the Livingston Job Service Employers' Council (or JSEC), has chosen Joe Bennett, General Manager of Albertsons Foods Store in Livingston, Montana as our spotlight member employer.

Albertsons is one of the keystone businesses in the Livingston community. It is also one of Park County's top employers. As such, the store has weathered both the good and bad times over the past decade in terms of both sales and employment. While the store regularly supplies food items to our area consumers, it also feeds many of the local citizens directly through food donations to the Park County Senior Center, Loaves & Fishes, and the Park County Food Pantry.

Joe became a member of the Livingston JSEC several years ago and he has clearly seen and endured a lot of change during that time. "I wasn't sure what I was getting into when I joined Livingston JSEC at the time, but once I became a member I liked being a part of it and have stayed with it for quite a while. One of the main reasons I joined was that I felt that my business could be better by having more resources available."

The Livingston JSEC's mission is to increase utilization of local services, serve in an advisory capacity as a communication link to the community on business and employment matters, and to promote activities that develop our present and future workforce. "Being a member of this group is a partnership", says Bennett. "It has helped me understand some of the struggles other businesses face in the community in addition to my own."

According to Bennett, being a participant in the JSEC group gives local and area businesses a voice that matters. He says, "If our community is strong, it helps me. The meetings I attend are a place where people listen. Good questions are asked and the information presented provides an insightful gauge of our community".

Joe Bennett has announced his retirement from Albertsons and will move on to a new life of leisure on March 26, 2011. Joe has been, and will continue to be a strong voice and pillar in the Livingston community as evidenced by his utter commitment to his work and to the local people of Park County. Joe, on behalf of Livingston JSEC and all of the lives you have made a difference to, we send a huge "Thanks" and wish you all the very best.

ADDRESS SERVICE REQUESTED

Livingston Job Service
220 East Park Street
Livingston, MT 59047

PRESORTED STANDARD